

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be reimbursement for CPT codes 22899 and 22899-80.
- b. The request was received on March 22, 2002

## **II. EXHIBITS**

1. Requestor:
  - a. TWCC 60 and Letter Requesting Dispute Resolution
  - b. HCFA's
  - c. EOB
  - d. Medical Records
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent:
  - a. TWCC 60 and/or Response to a Request for Dispute Resolution
  - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's additional information to the insurance carrier on May 15, 2002. The carrier representative signed for the copy on May 16, 2002. The Commission received the response for the carrier representative on May 17, 2002 and it was timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

## **III. PARTIES' POSITIONS**

1. Requestor: Letter to \_\_\_\_ dated September 8, 2001 signed by \_\_\_\_: "...I am writing to request an appeal for the above listed patients' claim in question to the explanation of benefits dated 05/03/01. The explanation code listed is 'U – Unnecessary treatment without peer review'... This appeal letter applies to CPT code 22899 which was used twice the patient required Brannigan cages, which were placed at vertebral

lumbar interspace L3-4 and L5-S1. If TWCC were up to date with the CPT codes that are now being used, the procedure code for the application of Brannigan cages would be CPT code 22851. But since TWCC is a few years behind we are forced to use an unlisted musculoskeletal system procedure code, which is CPT code 22899 this code does not have a MAR in the MFG. This code does not describe the complexity, which requires intricate steps of precision on behalf of the surgeon and assistant surgeon in order to insure proper placement... This involves greater time spent in the operative session, than that of placing segmental instrumentation, which is CPT code 22842... CPT code 22899, which was submitted with a DOP... For this we billed our usual and customary charge(s) for the procedure(s). According to the TWCC MFG (pg.2 VI), 'CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate...' In an effort to substantiate that our billing is fair and reasonable, I have attached documentation of what other carriers have paid for this unlisted code..."

2. Respondent: Statement of Position dated may 8, 2002 signed by \_\_\_\_: "...Carrier's position with respect to CPT Code 22899 is that requestor charged one service under CPT code 22842 and also charged for two procedures under CPT Code 22899. Each procedure was billed at \$4,500.00, for a total of \$13,500.00. Carrier paid the requestor \$6,640.00, based on PPO and UCR reductions to \$3,320.00 each for CPT Code 22842 and for one of the two procedures billed under CPT Code 22899. The surgery was at two levels, L3-4 and L5-S1. Carrier contends that only one charge in the amount of \$3,320.00 is allowed for the services performed, rather than the two procedures that were paid by carrier. Therefore, carrier contends it actually overpaid for these services when it paid for a second procedure at \$3,320.00... With respect to CPT Code 22899 charged in the amount of \$1,125.00, carrier contends that only one assisting surgeon is allowed rather than two assisting surgeons, shown on the HCFA-1500..."

#### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is March 26, 2001.
2. Review of the submitted documentation reveals that the disputed issue is payment for CPT Codes 22899 and 22899-80 x 2. Total amount billed is \$6,750.00; total amount in dispute is \$4,845.00. Requestor seeks fair and reasonable reimbursement and per Rule 133.1(a)(8) has submitted EOB's showing payment has been made for same or similar service at 100%, 95%, and 95%.
3. Review of submitted documentation reveals that (1) form TWCC-63, Recommendation for Spinal Surgery was completed by the surgeon with the listed CPT Code 22851 x 3 on an attachment to the TWCC-63 form; (2) the second opinion doctor selected by the carrier agreed with the injured workers' doctors' recommendation for spinal surgery; and (3) TWCC issued a letter of notification on February 15, 2002 that states, in part, "This

letter is your preauthorization for spinal surgery...” Therefore, per Rule 133.206(b)(3), payment in the amount of \$4,845.00 is recommended.

The above Findings and Decision are hereby issued this 18<sup>th</sup> day of September 2002.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

## **VI. ORDER**

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$4,845.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

This Order is hereby issued this 18<sup>th</sup> day of September 2002.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/mf